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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,285	01/23/2002	Makoto Warashina	S011-4532	7544

7590

09/22/2004

ADAMS & WILKS
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NEW YORK, NY 10004

EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,285

Applicant(s)

WARASHINA ET AL. *CA*

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The amendment filed on 06/14/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: “only a single mounting portion 25” on paragraphs 25 and 26, line 11. The original specification is not disclosing that each left and right handgrip is mounted on to the handle at only a single mounting portion 25. Each handgrip has more than a single mounting portion. Each handgrip has walls on both sides of the mounting portion 25 which are mounted to the handle. In addition, each handgrip has vertical walls that are mounted on the distal end of the handle. See Figs. AB and 5B of the instant application. Clearly, there is more than a single mounting portion that mounts each handgrip to the handle. The original specification also fails to that the handgrips 20, 30 having a single portion that is in direct contact with the bar at a point located substantially at the center of gravity. The specification discloses “the grips 20, 30 are mounted at the centers of gravity GL, GR or to areas proximate to the center of gravity GL, GR”. The specification does not teach that the handgrip has only a single mounting portion in contact with the bar. The handgrips have more that single mounting portions witch are in direct contact the bar 18. The original specification does not disclose that the screw 24 is the only mounting portion of each handgrip that is substantially at the center of gravity.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or

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with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claim 1, 8, and 14 the disclosure fails to teach that only a single mounting point or a single mounting portion on each one of the grips is in direct contact with the bar. Each handgrip has more than a single mounting portion. Each handgrip has walls on both sides of the screw or mounting portion which are mounted to the handle. In addition, each handgrip has vertical walls that are mounted to the distal end on the handle. Furthermore, the disclosure fails to teach that the single mounting portion or the only single mounting portion is substantially at the center of gravity. The original disclosure discloses handgrips are mounted at the centers of gravity GL, GR or to areas proximate to the center of gravity GL, GR". The specification does not teach that each handgrip has only a single mounting portion in contact with the bar. The handgrips have more than a single mounting portions which are in direct contact the bar.

This is a new matter rejection.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 1 and 8, "only a single mounting portion at which

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the handgrip is in direct contact with and fixedly mounted to the bar” is not clear. It is not clear how each handgrip only has a single mounting portion where each handgrip is mounted at more than only a single mounting portion to the handle.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, and 4, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Ballas, Sr. (4,282,652), hereinafter Ballas. Regarding claim 1, Ballas teaches a bush cutting machine 11 including a pipe-shaped operation rod 12, a motor 17 which is mounted to a proximal end of the operation rod 12, and a drive shaft which is extending through the operation rod 12 and it is driven by the motor 17. Ballas also teaches a cutting tool 14 that is located at a distal end of the operation rod 12 and is rotated by the drive shaft. Ballas also teaches a bar 21 that is mounted at a fixing point between the motor 17 and cutting tool 14 and right and left handgrips 26, 29 which are mounted to distal ends of the bar 21. Ballas also teaches that the handgrips 26, 29 have only a single mounting portion that is in direct contact with and fixedly mounted to the bar 21 at a point located substantially at a center gravity of a sum of a mass of the respective handgrips 26, 29 and a portion 22, 23 of the bar 21 which is extending between the fixing point and a respective one of the distal ends of the bar 21. The handgrips 26, 29 are mounted to the distal ends of each side 22, 23 of the bar 21. Some portion or entire inner surface of each handgrip 26, 29 is mounted fixedly and

directly to the bar. The inner surface of the handgrip, which is in contact to the bar, is considered to be a single mounting portion that connects or mounts the handgrip with the bar. Each handgrip 26, 29 has a single point that is in direct contact with the bar 21 and inherently that point is located closely adjacent to the center of gravity of the sum of a mass of the handgrip and a mass of the portion of the bar extending between the fixing point and the end of the bar. The central gravity of the sum of the mass of each side 22, 23 of the bar 21 and its respective handgrip 26, 29 is inherently arranged to be close to a single mounting portion on the respective handgrip. The handgrips 26, 29 reside close to the central gravity. Therefore, a single mounting portion along the longitudinal surface of the handgrip is inherently close to the central gravity. The central gravity also inherently encompasses the sum the sum of a mass of the handgrip 26, 29 and a mass of the portion of the bar extending between the fixing point and the end of the bar 21. Ballas also teaches that the mounting portions of the respective handgrips 26, 29 are located at portions of the bar at which vibrations transmitted to the bar from the motor through the operation rod 12 are minimized. It is inherent that the vibrations of the motor 17 through the operation bar at the mounting portions of the handgrips 26, 29 are reduced, since the hand grips 26, 29 are mounted substantially at the central gravity. The mass of the operation bar 12 and the motor 17 of the bush cutting apparatus 11 is equally distributed on the mounting portions of the handgrips 26, 29. The equal distribution of the masses on the mounting portions of the handgrips provides a balance control of the apparatus 11 and also inherently minimizes the vibration of the motor. See Figs. 1-5 and col. 3, lines 15-68 and col. 4, lines 1-55 in Ballas.

Regarding claims 3 and 4, Ballas teaches everything noted above including that the motor is gas-powered engine or is an electric motor. See col. 3, lines 15-20 in Ballas.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 8 and 11-12, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballas in view of Steere, Jr., et al. (3,344,684), hereinafter Steere.

Regarding claims 2 and 8, Ballas teaches everything noted above but including that the handgrips 26, 29 have a mounting portion that are in contact with the bar 21 and the mounting portions of the respective handgrips are located at positions of the bar at which vibrations transmitted to the bar from the motor through the operation rod 12 are minimized. See Figs. 1 and 2 in Ballas. Ballas does not teach that the handgrips also have escape portions that are not in contact with the bar to reduce vibration transmitted from the bar to the handgrip. However, the use of handgrips having escape portions for reducing the vibration transmitted from the motor or the like is well known in the art such as taught by Steere. Steere teaches a handgrip 40 including a mounting portion 43 that is in contact with the bar 46 and escape portions that are not in contact with the bar 46. The pocket-shaped spaces between the inner shell 43 outer shell 44 defines the escape portions of the handgrip 40. See Figs. 1-12 and page 2, lines 50-65 and page 3, lines 1-55 in Steere. It would have been

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obvious to one of ordinary skill in the art to provide Ballas' cutting machine with the handgrips as taught by Steere in order to provide the user with a softer grip and better absorption of transmitted shock which from an engine or the like.

Regarding claims 11 and 12, Ballas teaches everything noted above including that the motor is gas-powered engine or is an electric motor. See col. 3, lines 15-20 in Ballas.

10. Claims 5-7, 9, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballas in view of Steere, as applied to claim 2, and in further view of Higashi et al. (6,176,016), hereinafter Higashi. Regarding claims 5, 6, 9 and 13, Ballas as modified above teaches everything noted above including a throttle control lever 27 and the handgrips 26, 29 which are in direct contact with an outer circumferential surface of the bar 21 substantially at the center of gravity. See Fig. 1 in Ballas. Ballas as modified above does not teach that the throttle lever is mounted on the handgrip and the handgrip is made of two grip halves having inner peripheral surface portions forming the mount portion of the handgrip and held in contact with an outer circumferential surface of the bar. However, Higashi teaches a throttle lever 109 mounted on the handgrip 103. The handgrip 103 handgrip is made of two grip halves 103a, 103b having inner peripheral surface portions forming the mount portion of the handgrip and held in contact with an outer circumferential surface of the bar 102. See Figs. 21 and 22 and col. 17 lines 1-67 in Higashi. It would have been obvious to one of ordinary skill in the art to mount Ballas' throttle on the sectioned handgrip as taught by Steere in order for the operator to manipulate the throttle lever by same hand that the operator is gripping the handgrip of the cutting machine.

Regarding claims 7 and 10, Ballas as modified above teaches everything noted above including that hand grip 40 as taught by Steere has a portion 44 that is not contacted with the bar 46 and has a plurality of annular ribs 48 projecting from the inner peripheral surface of the grip halves as taught by Higashi. Ballas as modified above also teaches that the ribs 48 are spaced from one another in a longitudinal direction of the elongated body of the handgrip 40 and the annular ribs 48 have distal ends spaced from the outer circumferential surface of the bar 46 by gaps forming the escape portions of the handgrip 40. See Figs 8 and 9 and col. 3, lines 5-30 in Steere and Figs. 21 and 22 in Higashi.

To the degree that it could be argued that each handgrip in Ballas is not mounted to the bar at only a single mounting portion, the rejection below is applied.

11. Claims 1, 3, and 4, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballas in view of Yalch (5,897,469). Regarding claim 1, Ballas teaches a bush cutting machine 11 including a pipe-shaped operation rod 12, a motor 17 which is mounted to a proximal end of the operation rod 12, and a drive shaft which is extending through the operation rod 12 and it is driven by the motor 17. Ballas also teaches a cutting tool 14 that is located at a distal end of the operation rod 12 and is rotated by the drive shaft. Ballas also teaches a bar 21 that is mounted at a fixing point between the motor 17 and cutting tool 14 and right and left handgrips 26, 29 which are mounted to distal ends of the bar 21. Ballas also teaches that the handgrips 26, 29 have a single mounting portion that is in direct contact with the bar 21 at a point located substantially at a center gravity of a sum of a

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mass of the respective handgrips 26, 19 and a portion 22, 23 of the bar 21 which is extending between the fixing point and a respective one of the distal ends of the bar 21. The handgrips 26, 29 are mounted to the distal ends of each side 22, 23 of the bar 21. Each handgrip 26, 29 has a single point that is in direct contact with the bar 21 and inherently that point is located closely adjacent to the center of gravity of the sum of a mass of the handgrip and a mass of the portion of the bar extending between the fixing point and the end of the bar. The central gravity of the sum of the mass of each side 22, 23 of the bar 21 and its respective handgrip 26, 29 is inherently arranged to be close to a single mounting portion on the respective handgrip. The handgrips 26, 29 reside close to the central gravity. Therefore, a single mounting portion along the longitudinal surface of the handgrip is inherently close to the central gravity. The central gravity also inherently encompasses the sum the sum of a mass of the handgrip 26, 29 and a mass of the portion of the bar extending between the fixing point and the end of the bar 21. Ballas also teaches that the mounting portions of the respective handgrips 26, 29 are located at portions of the bar at which vibrations transmitted to the bar from the motor through the operation rod 12 are minimized. It is inherent that the vibrations of the motor 17 through the operation bar at the mounting portions of the handgrips 26, 29 are reduced, since the hand grips 26, 29 are mounted substantially at the central gravity. The mass of the operation bar 12 and the motor 17 of the bush cutting apparatus 11 is equally distributed on the mounting portions of the handgrips 26, 29. The equal distribution of the masses on the mounting portions of the handgrips provides a balance control of the apparatus 11 and also inherently minimizes the vibration of the motor. See Figs. 1-5 and col. 3, lines 15-68 and col. 4, lines 1-55 in Ballas. Ballas does not teach expressly that each handgrip has

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only a single mounting portion at which the handgrip is in direct contact and fixedly mounted to the bar. However, the use of hand grip that is mounted fixedly to a bar only at a single mounting portion is well known in the art such as taught by Yalch. Yalch teaches handgrips 4, 6 and bar 1, 2. Yalch also teaches that each handgrip 4, 6 is in direct contact with and fixedly mounted to the bar 1, 2 at only a single mounting portion. The mounting portion is defined by the tapered portion of each handgrip that is attached to the bar 1, 2. The handgrips 4, 6 also have a central gravity 7 which is at the center of the bar 1, 2 if the weights 3 and 5 are equal. See Figs. 1 and 2 and col. 5, lines 34-67 and col. 6, lines 1-55 in Yalch. It would have been obvious to a person of ordinary skill in the art to provide each the handgrips of Ballas' cutting machine with the single mounting portion as taught by Yalch, since one mounting portion or more than one mounting portion for each handgrip does not change the function of the handgrip and a handgrip with only a mounting portion is only an alternative way to mount the hand grip to the bar.

12. Claims 2, 8 and 11-12, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballas in view of Yalch, as applied above, and in further view of Steere. Regarding claims 2 and 8, Ballas as modified above teaches everything noted above but including that the handgrips 26, 29 have a mounting portion that are in contact with the bar 21 and the mounting portions of the respective handgrips are located at positions of the bar at which vibrations transmitted to the bar from the motor through the operation rod 12 are minimized. See Figs. 1 and 2 in Ballas. Ballas as modified above does not teach that the handgrips also have escape portions that are not in contact with the bar to reduce vibration transmitted from the bar to the handgrip. However, the use of handgrips having escape

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portions for reducing the vibration transmitted from the motor or the like is well known in the art such as taught by Steere. Steere teaches a handgrip 40 including a mounting portion 43 that is in contact with the bar 46 and escape portions that are not in contact with the bar 46. The pocket-shaped spaces between the inner shell 43 outer shell 44 defines the escape portions of the handgrip 40. See Figs. 1-12 and page 2, lines 50-65 and page 3, lines 1-55 in Steere. It would have been obvious to one of ordinary skill in the art to provide Ballas' cutting machine, as modified by Yalch, with the handgrips as taught by Steere in order to provide the user with a softer grip and better absorption of transmitted shock which from an engine or the like.

Regarding claims 11 and 12, Ballas teaches everything noted above including that the motor is gas-powered engine or is an electric motor. See col. 3, lines 15-20 in Ballas.

13. Claims 5-7, 9, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballas in view of Yalch and Steere, as applied above, and in further view of Higashi.

Regarding claims 5, 6, 9 and 13, Ballas as modified above teaches everything noted above including a throttle control lever 27 and the handgrips 26, 29 which are in direct contact with an outer circumferential surface of the bar 21 substantially at the center of gravity. See Fig. 1 in Ballas. Ballas as modified above does not teach that the throttle lever is mounted on the handgrip and the handgrip is made of two grip halves having inner peripheral surface portions forming the mount portion of the handgrip and held in contact with an outer circumferential surface of the bar. However, Higashi teaches a throttle lever 109 mounted on the handgrip 103. The handgrip 103 handgrip is made of two grip halves 103a, 103b having inner peripheral surface portions forming the mount portion of the handgrip and held in

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contact with an outer circumferential surface of the bar 102. See Figs. 21 and 22 and col. 17 lines 1-67 in Higashi. It would have been obvious to one of ordinary skill in the art to mount Ballas' throttle on the sectioned handgrip as taught by Steere in order for the operator to manipulate the throttle lever by same hand that the operator is gripping the handgrip of the cutting machine.

Regarding claims 7 and 10, Ballas as modified above teaches everything noted above including that hand grip 40 as taught by Steere has a portion 44 that is not contacted with the bar 46 and has a plurality of annular ribs 48 projecting from the inner peripheral surface of the grip halves as taught by Higashi. Ballas as modified above also teaches that the ribs 48 are spaced from one another in a longitudinal direction of the elongated body of the handgrip 40 and the annular ribs 48 have distal ends spaced from the outer circumferential surface of the bar 46 by gaps forming the escape portions of the handgrip 40. See Figs 8 and 9 and col. 3, lines 5-30 in Steere and Figs. 21 and 22 in Higashi.

Comment

14. Regarding claims 14-17, the prior art does not teach that the annular ribs have distal ends spaced from the outer circumferential surface of the distal end portion of the bar and forming the escape portions of the handgrip as set forth in claim 14. However, in view of the issues under 35U.S.C. 112, first paragraph, and the objection to the specification under 37 CFR 1.71 the allowability of the subjected matter cannot be indicated at this time.

Response to Amendment

15. Applicant's arguments filed 06/14/04 have been fully considered but they are mute, since they are based on new matters.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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GA/ga

September 14, 2004

A handwritten signature in black ink, appearing to read "AS", followed by a long diagonal stroke.

Allan N. Shoap
Supervisory Patent Examiner
Group 3700